

## APPENDIX 1

### PROPOSED POLICY – EQUALITY ACT 2010 (Carrying wheelchair users)

#### 23. DUTY TO ASSIST PASSENGERS IN WHEELCHAIRS

23.1 Under Section 165 of the Equality Act 2010, licensed drivers of designated Wheelchair Accessible Vehicles (WAV) must:

- Carry the passenger while in the wheelchair;
- Not to make any additional charge for doing so (For instance - A meter should not be left running whilst the driver performs duties required by the Act, or the passenger enters, leaves or secures their wheelchair within the passenger compartment);
- If the passenger chooses to sit in a passenger seat to carry the wheelchair;
- To take such steps as are necessary to ensure that the passenger is carried in safety (There is a defence available to a driver that it would have not been possible to carry the wheelchair safely in the vehicle) and reasonable comfort; and
- To give the passenger such mobility assistance as is reasonably required.

A driver who breaches one or more of the duties outlined above will be liable on summary conviction for each offence to pay a fine not exceeding level 3 on the standard scale. The current maximum level of the fine is £1,000.

23.2 Designated vehicles are those listed by the Council under section 167 of the Equality Act 2010 as being a 'wheelchair accessible vehicle'. A list of such vehicles will be published on the Council website. Drivers will be written to if they own or drive a designated WAV which features on the list.

23.3 Drivers who have a certifiable medical condition or physical condition, which makes it impossible or unreasonably difficult for them to assist wheelchair users, may apply to the council for an exemption from this duty. Any such application will need to be supported by a letter from the driver's doctor or specialist detailing the following:

- What duties cannot be undertaken;
- Why they cannot be undertaken;
- Date the condition was first noted;
- Whether there are any modifications to the vehicle or the way the driver provides the service that would negate the need for an exemption;
- For how long the medical exemption will be required for; and
- To provide any medical reports in support of the request being made.

23.4 The Council reserves the right to refer the driver to the Council's own medical or occupational health practitioner if an assessment by a third party medical practitioner is felt necessary. Any additional costs will be borne by the driver.

23.5 If an exemption is issued then the notice of exemption must be exhibited in the vehicle by fixing it, facing outwards, either on the windscreen or in a prominent position on the dashboard. The exemption will only apply if the notice of exemption is displayed correctly.

23.6 The Council will develop an application process to deal with this particular matter.

- 23.7 If Officers of the Licensing Team have any concerns regarding granting the exemption then the matter will be referred to the Licensing (General Purposes) Sub-Committee to determine. If the application for an exemption is refused then under Section 172 of the Equality Act 2010 there is a right of appeal to the Magistrates Court within 28 days of the date of refusal.
- 23.8 It is the expectation of the Council that the owner or driver of a WAV is fully conversant in terms of loading, securing and unloading a wheelchair user in a safe manner. The owner or driver should also be aware of any limitations that the vehicle may have in relation to different types of wheelchairs. For instance, any weight limits in relation to ramps.